

REMARKS

Information Disclosure Statement

Applicant respectfully requests that the Examiner acknowledge consideration of the references in the Information Disclosure Statement filed on October 10, 2000 by initialing and returning a copy of its associated 1449 Form with the next official communication.

Response to §102 Rejection

The Action rejects claims 39-57 and 88-92 under 35 USC § 102(e) as anticipated by the Fazan patent (5,392,189). In response, applicant submits that Fazan does not constitute prior art under 102(e) relative to the pending claims of this application.

In particular, Fazan appears to have a 102(e) date no earlier than April 2, 1993, the filing date of application serial number 08/044,331. However, the present application stems also from application serial number 08/044,331 and thus also benefits from the April 2, 1993 filing date. (Note that this amendment corrects the continuation data for this application which had inadvertently omitted the connection to the '331 application.) In other words, the pending claims of the present application have the same 102(e) date as the Fazan patent.

Therefore, contrary to the requirements of 35 USC 102(e), the Fazan patent was not filed before the date of invention of the presently claimed invention. Accordingly, the 102(e) rejection should be withdrawn.

Conclusion

In view of these remarks, applicant respectfully requests reconsideration and withdrawal of the 102(e) rejection. Moreover, applicant invites the Examiner to telephone its patent counsel Eduardo Drake (612- 349-9593) to resolve any issues which may impede allowance.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

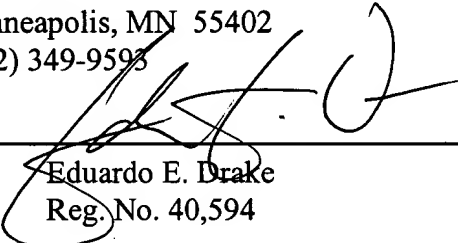
PIERRE C. FAZAN ET AL.

By their Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. Box 2938
Minneapolis, MN 55402
(612) 349-9593

Date 1 Nov. 2001

By


Eduardo E. Drake
Reg. No. 40,594

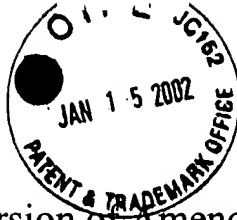
CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Box AF, Commissioner of Patents, Washington, D.C. 20231, on this 1st day of November, 2001.

Name

Amy Moriarty

Signature

Amy Moriarty



Clean Version of Amended Specification Paragraph

METHOD FOR FORMING A STORAGE CELL CAPACITOR COMPATIBLE WITH HIGH
DIELECTRIC CONSTANT MATERIALS

Applicant: Pierre C. Fazan et al.

Serial No.: 09/489,954

Filed: January 24, 2000

On page 1, the first paragraph:

This application is a divisional of U.S. Serial No. 08/572,392 filed 12/14/95 now issued as U.S. Patent No. 6,030,847 which is a continuation in part of U.S. Serial No. 08/390,336 filed 02/17/95 now issued as U.S. Patent No. 5,478,772 which is a continuation of U.S. Serial No. 08/044,331 filed 4/2/93 now abandoned.

RECEIVED

JAN 18 2002

TECHNOLOGY CENTER 2800